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9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA
11

12 TRUSTEES OF THE CONSTRUCTION
13 INDUSTRY AND LABORERS HEALTH
AND WELFARE TRUST; TRUSTEES OF
14 THE CONSTRUCTION INDUSTRY AND
LABORERS JOINT PENSION TRUST;
15 TRUSTEES OF THE CONSTRUCTION
INDUSTRY AND LABORERS VACATION
16 TRUST; AND TRUSTEES OF THE
SOUTHERN NEVADA LABORERS
17 LOCAL 872 TRAINING TRUST,
18

19 Plaintiffs,

20 vs.

21 ATLAS CONSTRUCTION CLEANUP,
INC., a Nevada corporation; and ERNEST
22 CORTEZ, JR., an individual,
23

24 Defendants.
25

CASE NO.

CONFESSON AND STIPULATION TO
ENTRY OF JUDGMENT UNDER 29
U.S.C. § 1001 et seq. "ERISA"

26 Atlas Construction Cleanup, Inc. ("Atlas"), a Nevada corporation, and Ernest Cortez, Jr.
27 ("Cortez") hereby confess judgment and stipulate to entry of judgment in United States District
28 Court, District of Nevada under 29 U.S.C. §1001 et seq. of the Employee Retirement Income

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1 Security Act of 1974 ("ERISA") in favor of Plaintiffs Trustees of the Construction Industry and
2 Laborers Health and Welfare Trust; Trustees of the Construction Industry and Laborers Joint
3 Pension Trust; Trustees of the Construction Industry and Laborers Vacation Trust; and Trustees
4 of the Southern Nevada Laborers Local 872 Training Trust (collectively the "Laborers Joint Trust
5 Funds"), and against Atlas and Cortez in the total sum of Two Hundred Forty Three Eight
6 Hundred Seventy Five and 02/100 Dollars (\$243.875.02), representing employee benefits,
7 liquidated damages, attorneys' fees and costs, and interest.
8

9 This Confession and Stipulation to Entry of Judgment is for a debt justly due to the
10 Plaintiffs Laborers Joint Trust Funds under ERISA and arising out of the following facts:

11 1. Atlas is signatory to and bound by the terms of the Master Labor Agreement and
12 the Trust Agreements establishing the Laborers Joint Trust Funds.

13 2. Under these Agreements, Atlas is obligated to pay employee benefits to the
14 Laborers Joint Trust Funds on behalf of Atlas' bargaining unit employees represented by Laborers
15 International Union of North America or its affiliated locals.
16

17 3. Based on a remittance reports of Atlas for the months of April through June, 2009,
18 Atlas is delinquent in payment of employee benefit contributions and ancillary costs to the
19 Laborers Joint Trust Funds for the months of April through June, 2009.

20 4. Ernest Cortez, Jr. is an officer of Atlas. As an officer, Ernest Cortez, Jr. has
21 control over whether Atlas pays the employee benefits it owes to the Laborers Joint Trust Funds.
22

23 5. The employee benefits become Trust Fund assets as of the date they are due to the
24 Laborers Joint Trust Funds.

25 6. Ernest Cortez, Jr. has possession of employee benefits due to the Laborers Joint
26 Trust Funds, which are Trust Fund assets.
27
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7. By virtue of Cortez's possession and control of employee benefits, Ernest Cortez, Jr. is a "fiduciary" under ERISA.

8. As an ERISA fiduciary, Ernest Cortez, Jr. has a duty to make the Laborers Joint Trust Funds whole for all delinquent employee benefits that are due from Atlas.

9. Atlas is delinquent to the Laborers Joint Trust Funds for contributions totaling One Hundred Ninety Eight Thousand Eight Hundred Twelve and 64/100 Dollars (\$198,812.64), liquidated damages totaling Thirty Nine Thousand Seven Hundred Sixty Two and 53/100 Dollars (\$39,762.53), past interest at 14% in the amount of Three Thousand Seven Hundred Ninety Nine and 85/100 Dollars (\$3,799.85), past attorney's fees and costs in the amount of One Thousand Five Hundred and no/100 Dollars (\$1,500.00) for a total of Two Hundred Forty Three Thousand Eight Hundred Seventy Five and 02/100 Dollars (\$243,875.02).

10. The foregoing is for a debt justly due and owing by Atlas and Ernest Cortez, Jr. to the Laborers Joint Trust Funds under 29 U.S.C. §1001 et seq. "ERISA."

11. Ernest Cortez, Jr. agrees to personally guarantee and to be personally liable for payment of the amounts set forth herein.

Dated: July 29, 2009

Atlas Construction Cleanup, Inc.

By:

Ernest Cortez, Jr.

Its:

President

Dated: July 29, 2009

Ernest Cortez, Jr., an individual

By:

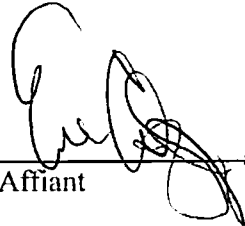
Ernest Cortez, Jr.

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1 STATE OF NEVADA)
2 COUNTY OF Clark) ss.

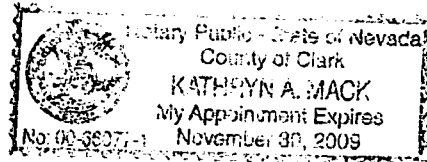
3 Ernest Cortez, Jr., being first duly sworn, deposes and says:

4 That he is the PRESIDENT and representative of Defendant Atlas
5 Construction Cleanup, Inc. and is duly authorized to execute this document; that he has read the
6 foregoing Confession and Stipulation to Entry of Judgment Under U.S.C. §1001 et seq. of ERISA
7 and knows the contents thereof; that the same is true of his own knowledge, except for those
8 matters therein stated on information and belief, and as to those matters he believes them to be
9 true.
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11
12
13 
Affiant

14 Subscribed and sworn to before me
15 this 29th day of July, 2009.

16 
- NOTARY PUBLIC -



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22 IT IS SO ORDERED.

23 
24 CHIEF UNITED STATES DISTRICT JUDGE
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26 DATED: April 19, 2011
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